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December 17, 2018

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

RE: Public Safety and Homeland Security Bureau Seeks Comment on Hurricane Michael Preparation and Response, PS Docket No. 18-339 and WC Docket Nos. 09-197, 11-42 and 17-287

Dear Ms. Dortch:

Free Press praised Federal Communications Commission Chairman Ajit Pai when he acted quickly after Hurricane Michael struck the Florida panhandle and disrupted communication services in the area in October.¹ However, this welcome action to respond rapidly to storm damage in Florida served to highlight the half-measures and double-standards plaguing the Commission's inadequate response to hurricanes that devastated Puerto Rico a year earlier.

Less than a week after the Category 4 Hurricane Michael made landfall in 2018, Chairman Pai ordered his agency to investigate the failure of telecom carriers to restore service quickly. He demanded that carriers disclose to Florida residents how they planned to restore service. He also called on carriers to waive bills for customers whose service had been disrupted, and to allow them to switch providers without paying a termination fee.²

These were good and justifiable responses. But despite our praise for Chairman Pai's actions this year, we remain troubled that his response failed to show the same concern when it came to restoring services in Puerto Rico after Hurricane Maria—also a Category 4 storm by the time it made landfall—devastated the islands last year.

Hurricane Maria struck Puerto Rico on September 20, 2017. Between 3,000 and 5,000 people died as a result, making it one of the deadliest tragedies in U.S. history. The hurricane crippled the islands' communications network and this in turn contributed to the death toll since people were unable to call for help or access important, life-saving information from disaster-response authorities.

It took months for most households in Puerto Rico to have their service restored, and some continue to be affected to this day.

¹ See Free Press (@freepress), Twitter (Oct. 16, 2018, 5:12 PM), <https://twitter.com/freepress/status/1052351543167442945>.

² See "Statement of Chairman Pai on Hurricane Michael Restoration Efforts," Press Release (rel. Oct. 16, 2018).

After Hurricane Maria, Puerto Rican telecommunications infrastructure was in shambles:

- Over 95 percent of cell sites were out of service. Two days after landfall, just six of 185 radio stations were back on the air and not a single television station was broadcasting.³
- By December 2017, only five out of more than 100 television stations were back on the air and cable and landline phone service were, in the FCC's own words, "generally non-existent."⁴

Despite his newly discovered willingness to challenge carriers' slow restoration efforts following Hurricane Michael, Chairman Pai has yet to hold any telecom carriers accountable despite the vastly longer amount of time it has taken to restore service in Puerto Rico. And there remain real questions about whether telecom carriers have actually addressed the service needs of their customers during the recovery effort there.

In July, we expressed our concerns over comments made by executives for América Móvil and AT&T, who either admitted uncertainty about whether wireline services would even be restored in certain areas of Puerto Rico or speculated on the potential for older networks to be upgraded. In addition, we noted that companies offering service in Puerto Rico took very different approaches in preparing to respond to the hurricane, which could have played a significant role in determining the disparate amounts of time it took different carriers to restore service.⁵

Despite these failures in Puerto Rico, the Chairman has failed to hold telecom companies accountable during the recovery effort. Instead, the FCC has awarded millions of dollars to carriers over the past year to restore service and build networks without implementing any significant oversight to ensure the funding is actually used to address the systemic issues plaguing the communications infrastructure in Puerto Rico.

For these reasons, Free Press earlier this year called on Chairman Pai to investigate all the causes for the collapse of Puerto Rico's communications networks, in an effort to prevent this from happening again. We urged the Chairman to hold public hearings in Puerto Rico, so the agency's policies could be informed by Puerto Ricans directly impacted by the loss of communication services on the islands rather than solely by assurances of self-interested carriers.

Chairman Pai formed an internal Hurricane Task Force at the FCC after Hurricane Maria to coordinate the agency's response. But the lack of transparency has made it almost impossible to ascertain who staffs that Task Force, let alone what it may or may not have accomplished since its formation. The public does not know who most of the members serving on this Task Force are, what its interactions may be with other relevant government agencies, or whether and to what extent the Commission coordinated with telecom carriers on restoring service.

³ See FCC, "Communications Status Report for Areas Impacted by Hurricane Maria" (rel. Sept. 23, 2017).

⁴ See FCC, "Communications Status Report for Areas Impacted by Hurricane Maria" (rel. Dec. 6, 2017).

⁵ See Letter from Joseph Torres, Senior Director of Strategy and Engagement, Free Press, to Marlene H. Dortch, Sec'y, FCC, WC Docket No. 18-144 (filed July 20, 2018).

Instead, Free Press was obligated to file a FOIA request to get these facts.⁶ And while the FCC did release a slim 36-page report on the Commission's response to the 2017 hurricane season almost a full year later, in August 2018, that failed to provide any clarity on the work of the Task Force beyond what little was already public. Furthermore, and critically, the report failed to reflect the gravity of this devastating hurricane and failed to even begin a sincere effort to understand how the collapse of communications networks contributed to the tragic death toll in Puerto Rico.⁷

Frustrated by the Commission's continued lack of urgency and transparency, we joined Puerto Rican groups and advocates last September in calling on the FCC to appoint an independent commission to investigate the causes for the communications crises in Puerto Rico.⁸

To ensure the voices of Puerto Ricans would be heard in telling the story of those crises, Free Press staff visited Puerto Rico in October and worked with allies to hear from residents in Vieques and Comerío on how the loss of communications impacted their lives. The stories we heard reinforced why the ability to communicate is truly a life and death matter, especially during and after a disaster.

We heard how the loss of communications constrained people's ability to find help because they were unable to receive information on where to search for food or water and were afraid to leave their houses due to mudslides in the area. We also heard stories that there were no media outlets informing them of where it was safe to travel, find medical care, or seek out loved ones.

As we spoke with island residents, many were troubled to hear about Chairman Pai's effort to gut the Lifeline program which would disproportionately harm Puerto Ricans. About 60 percent of eligible Lifeline recipients in Puerto Rico actually take part in the program, meaning that some 369,000 households in Puerto Rico receive Lifeline benefits.⁹ The Lifeline participation rate in Puerto Rico nearly doubles the national average and far outpaces the Lifeline participation rate of any state in the nation. Yet the effects of these Lifeline changes would extend beyond Puerto Rico and potentially impact other disaster-prone areas. In Texas, 647,671 households subscribe to Lifeline, and 67 percent (or approximately approximate total of 434,000 households) would be cut-off from service by Chairman Pai's proposals.¹⁰ Florida has the highest number of households subscribed to Lifeline at 1,073,751.¹¹

⁶ See Letter from Carmen Scurato, Senior Policy Counsel, Free Press, to FCC (filed Nov. 9, 2018).

⁷ See FCC, "2017 Atlantic Hurricane Season Impact on Communications Report and Recommendations," Public Safety Docket No. 17-344 (rel. Aug. 24, 2018).

⁸ See Letter from Center for Media Justice, Collective Action for Puerto Rico, Color Of Change, Defend Puerto Rico, Free Press, May First/People Link, National Hispanic Media Coalition, THE POINT CDC, Arlene Davila, NYU, Bruno Takahashi, Michigan State University, Federico Subervi, Ph.D., School of Media & Communication, University of Leeds, Gloria Tristani, Former FCC Commissioner, Greta Byrum, Digital Equity Laboratory, The New School, Jillian Baez, College of Staten Island-CUNY, Luis Rosario-Albert, Universidad del Turabo, Marcos Vilar, Alianza for Progress, Rosa Clemente, Puerto Rico On The Map, Teresa Basilio Gaztambide, Resilient Just Technologies, to Ajit Pai, Chairman, FCC, PS Docket No. 17-344 & WC Docket No. 18-143 (filed Sept. 20, 2018).

⁹ See National Consumer Law Center, "A Lifeline that Breaks Down Barriers to Affordable Communications, Puerto Rico" (last visited Feb. 21, 2018), <https://www.nclc.org/images/pdf/take-action/lifeline/fact-sheets/PR-LL.pdf>.

¹⁰ See National Consumer Law Center, "A Lifeline that Breaks Down Barriers to Affordable Communications, Texas" (last visited Feb. 21, 2018), <https://www.nclc.org/images/pdf/take-action/lifeline/fact-sheets/TX-LL.pdf>.

¹¹ See National Consumer Law Center, "A Lifeline that Breaks Down Barriers to Affordable Communications, Florida" (last visited Feb. 21, 2018), <https://www.nclc.org/images/pdf/take-action/lifeline/fact-sheets/FL-LL.pdf>.

It is unconscionable that the Chairman would gut this program, harming the poorest families in Puerto Rico and in our country, including those who often live in the areas most vulnerable to devastating storm impacts.

We hope a new Congress will seek answers from Chairman Pai on his effort to dismantle the Lifeline program, and why he has failed to act with the same appropriate urgency he displayed in his response to Florida panhandle outages to address the communications crisis in Puerto Rico.

In the wake of Hurricane Michael, the Commission acknowledged that carriers' interests do not always align with the public's interests and public safety needs. While the Commission took some promising steps to oversee carriers' failings and spur them to action after Michael, a thorough and independent investigation of last year's hurricane season by the Commission could have provided a wealth of lessons to avoid such carrier failures (and resulting tragedies) this year.¹²

As we watch the Pai FCC scramble to respond appropriately from one devastating storm to the next, we cannot help but question the half-measures taken in response to the Puerto Rico crisis and the double standards on full display in responses to these storms just a year apart. We continue to believe that those lingering questions would be best resolved by a real investigation by an independent panel, closely scrutinizing the FCC's response and an industry that has worked very hard to avoid the blame for its failures in Puerto Rico.

Respectfully Submitted,

/s/

Joseph Torres, Senior Director of Strategy
and Engagement

Leo Fitzpatrick, Policy Counsel

Carmen Scurato, Senior Policy Counsel

Matthew F. Wood, Policy Director

¹² *Compare Public Safety and Homeland Security Bureau Seeks Comment On Hurricane Michael Preparation and Response*, PS Docket No. 18-339, Public Notice, DA 18-1176, at 3 (rel. Nov. 16, 2018) (asking “[w]hat do service providers believe were the obstacles to restoring communications systems almost a week after Hurricane Michael?”) (emphasis added), *with Public Safety and Homeland Security Bureau Seeks Comments on Response Efforts Undertaken During 2017 Hurricane Season*, PS Docket No. 17-344, Public Notice, 32 FCC Rcd 10245, 10247 (2017) (asking what were the “major causes for communications outages due to the hurricanes?”). The 2017 Public Notice omits mentioning the duration of the period prior to restoration and thus seems to indicate a lack of urgency for Puerto Rico. Further, the striking similarity between these two notices raises questions as to why the Commission needed to seek the same information after Michael when it might have ensured a more appropriate response to the Florida storm with more diligent action the prior year to learn from Hurricane Maria.